

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**BRIAN PIERCE,** :  
:  
**Plaintiff,** :  
:  
**v.** : **Civil Action No. 03-173E**  
**PENNSYLVANIA DEPARTMENT OF** : **Judge Sean J. McLaughlin**  
**CORRECTIONS,** : **Magistrate Judge Susan Paradise Baxter**  
:  
**Defendant.** :

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## **ATTACHMENT A**



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Pittsburgh Area Office**

Liberty Center  
1001 Liberty Avenue, Suite 300  
Pittsburgh, PA 15222-4187  
(412) 644-3444  
TTY (412) 644-2720  
FAX (412) 644-2664

Mr. Brian D. Pierce  
313 South Main Street  
Cambridge Springs, PA 16403

Our Reference: 172A300147  
Pierce v. PA Department of Corrections/SCI Cambridge Springs

Dear Mr. Pierce:

Your charge of discrimination referenced above was investigated pursuant to the Commission's policies and procedures in which it was determined the allegations were not substantiated as indicated below:

1. Allegations:

You alleged that you were discriminated against because of your sex, male, your religious beliefs, and in retaliation for engaging in a protected activity, in that you were subjected to harassment and discharged from your position as an LPN on May 13, 2002.

2. Respondent defense:

The Respondent denied your allegations of discrimination and stated you were discharged solely because of your repeated refusals to adhere to Department of Corrections policies.

3. Examination of the evidence:

Your attorney received a copy of the response submitted by the Respondent and a written rebuttal was requested regarding the Respondent's defense. The rebuttal received does not provide any evidence and/or any other information that substantiate your allegations. You received several written disciplinary actions, and you were suspended, as indicated by documentation received from the Respondent, for not following the policies and procedures. You were warned that if you failed to follow those policies and procedures, you could be terminated. There is no evidence that the Respondent disciplined and/or discharged you because of your sex and/or religious beliefs. Furthermore, there is no evidence that you were retaliated against because you were a witness for an individual who filed a charge with this Commission.

4. Conclusion:

Your allegations of discrimination and/or retaliation cannot be substantiated. You were discharged solely for violating the Respondent's policies and procedures, and not because of your sex, religious beliefs and/or for engaging in a protected activity. None was discovered, not of your sex and/or religious beliefs, and who had engaged in the same or similar infractions and was not similarly disciplined and/or discharged.

Based upon the above, it is not likely that further investigation will result in a finding of a violation against the Respondent. Accordingly, enclosed please find the Commission's Dismissal and Notice of Rights. If you wish to pursue this matter further, you may file a lawsuit on your own behalf within 90 days of your receipt of the attached notice.

Sincerely,



Marjorie A. Gregory  
Investigator

2/25/03  
Date

Enclosure

cc: Neal A. Sanders, Esquire

## **ATTACHMENT B**

JEFFREY A. BEARD, Ph. D  
SECRETARY  
DEPARTMENT OF CORRECTIONS

WILLIAM J. LOVE  
DEPUTY SECRETARY  
FOR  
SPECIALIZED FACILITIES &  
PROGRAMS

COMMONWEALTH OF PENNSYLVANIA  
STATE CORRECTIONAL INSTITUTION  
AT CAMBRIDGE SPRINGS

451 Fullerton Avenue  
Cambridge Springs, PA 16403-1229  
Telephone 814-398-5400

May 10, 2002

MARILYN S. BROOKS  
SUPERINTENDENT

Address All Replies  
To Superintendent

PLAINTIFF'S  
EXHIBIT 18

Brian Pierce  
313 Main Street  
Cambridge Springs, PA 16403

Dear Mr. Pierce: Employee#456590

This is to advise you that effective May 13, 2002, you are terminated from your position as a Licensed Practical Nurse, Permanent Civil Service Status, with the Department of Corrections at the State Correctional Institution at Cambridge Springs.

A Pre-Disciplinary Conference was held on April 23, 2002, to offer you the opportunity to respond to charges of violation of the following sections of the Department of Corrections Code of Ethics:

Section A, General Responsibility of Department of Corrections Employees: Consistent with the responsibility of all correctional employees in the Commonwealth of Pennsylvania to perform their duties with integrity and impartiality and to avoid situations whereby bias, prejudice, or personal gain could influence official decisions, the following code is being promulgated.

Section B, #1: Specific Rules and Regulations – Department of Corrections: Each employee in the correctional system is expected to subscribe to the principle that something positive can be done for each inmate. This principle is to be applied without exception.

This involves an intelligent, humane and impartial treatment of inmates. Profanity directed to inmates, or vengeful, brutal, or discriminatory treatment of inmates will not be tolerated. Corporal punishment shall not be utilized under any circumstances.

Section B, #9: Lawful orders by a supervisor to a subordinate must be executed promptly and faithfully by the subordinate even though the employee may question the wisdom of such order. The privilege of formally appealing the order may be done at a later date through either the supervisory command structure, civil service appeal, or the grievance machinery.

Section B, #10: Employees are expected to treat their peers, supervisors and the general public with respect and conduct themselves properly and professionally at all times; unacceptable conduct or insolence will not be tolerated.

PIERCE, BRIAN

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Section B, #14: Employees will promptly report to their supervisor any information which comes to their attention and indicates violation of the law, rules, and/or regulations of the Department of Corrections by either an employee or an inmate, and will maintain reasonable familiarity with the provisions of such directives.

Section B, #29: All employees shall comply and cooperate with internal investigations conducted under the authority of the Department of Corrections, and respond to questions completely and truthfully. Procedure in cases that may result in criminal prosecution will include those rights accorded to all citizens of the Commonwealth.

The Pre-Disciplinary Committee substantiated violations of Sections A, General Responsibility, Section B, Number 1, Section B, Number 9, Section B, Number 10, Section B, Number 14, and Section B, Number 29.

It was established by the Pre-Disciplinary Committee, regarding incidents that occurred on March 9 and 10, 2002, that you directed and chose to alter the operation of the 4<sup>th</sup> medication line on March 10, 2002. You acknowledged, and statements from staff support, that you were upset by security questioning your integrity and character by checking on the short duration of the medication line and questioning you about the pre-pouring of medications on March 9, 2002. You admitted, during the fact-finding, that had the officer who had challenged you on March 9 not been on duty on March 10, the line would have run as usual. Your actions were clearly retaliatory and in violation of Section A, General Responsibility, and Section B, Number 10. You failed to show impartiality and integrity in the performance of your duties, and your actions were unprofessional and unacceptable conduct.

The Pre-Disciplinary Committee also found evidence to substantiate charges that you violated Section A, General Responsibility, and Section B, Number 1 and 9. On March 20, 2002, you refused to open the medication line window to inmates who arrived after medication line had closed, though you had been advised, by the team leader, that one of the inmates was on a life-sustaining anti-epileptic medication. You did not comply with the first two direct orders, and it was not until you were given a third direct order, that you opened the medication line window and provided the inmates their medications. It was further established that you had been informed that the inmates were late through no fault of their own. During the PDC, you stated that you were "pretty sure" that the anti-epileptic drug in question was not "life-sustaining". Although it was later established that the drug was not considered "life-sustaining" for the inmate in question, it was a critical medication, and you admitted that you were not sure at the time. It was not until a later date that you called the pharmacist to verify. You failed to perform your duties with integrity and impartiality, failed to provide humane and impartial treatment to inmates, and failed to follow lawful orders promptly.

Regarding an incident that occurred on April 1, 2002, the Pre-Disciplinary Committee found statements and evidence provided by a review of the narcotics sheets and blister cards, substantiated that you failed to accurately log the medication remaining in a blister pack of narcotics. This occurred not only when initially recording the narcotic sheet, but again when performing count at shift change. The Committee found that, by your carelessness, you failed to perform your duties with integrity as required by Section A, General Responsibility of Corrections Employees. You were previously issued a one-

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day suspension on March 21, 2001 for medication count discrepancies, relating to an incident that occurred at SCI Albion prior to your transfer to SCI Cambridge Springs.

On April 1, 2002, you ordered a 60-day supply of HIV medications for an HIV inmate without required pre-release notification from the Records Department, in conflict with policy that mandates a 30-day supply of HIV medication be provided. You were overheard advising the inmate that you would "hook her up" and observed passing a note to her. During the PDC, you admitted to making this statement to the inmate, and ordering the 60-day supply, stating that you should have known that only a 30-day supply was allowed by policy. Your response that this was an error, and acknowledgment during the PDC that you had acted on the inmate's word that she was leaving for a center rather than checking for written notice of her release per procedures, does not excuse your actions. The Committee found the evidence substantiates violation of Section A, General Responsibility. Documentation indicates that you were advised in the inmate's presence that medications were not to be ordered until notification by Inmate Records of the release, yet you proceeded to order the 60-day supply. Your actions showed clear disregard for established policy and demonstrate that you allowed your personal feelings and opinions to compromise your integrity and impartiality.

On April 5, 2002, you violated established policy/procedure, when you went to the RHU without the medication bag and the Medication Administration Record (MAR). Proper procedure was discussed with you on August 28, 2001 and again on March 11, 2002, and you acknowledged your understanding to the Corrections Health Care Administrator. In addition, you were found to have pre-poured medications, borrowed medications from other inmates' blister cards, and you failed to crush psychiatric medications, as required by DOC Policy 13.4.1. Your actions were in violation of Section B, Number 10 and Number 14. You failed to act in accordance with policy with which you were required to maintain familiarity, regarding medication room policy/procedure, and failed to conduct yourself properly and professionally. Evidence presented in the form of staff statements verifies that you were aware of the violations, yet chose to disregard policy and procedure.

You also violated Section B, Number 10, by failing to conduct yourself properly and professionally during an incident that occurred on April 9, 2002. You engaged in a conversation with inmates, during which you made negative comments about the Residential Substance Abuse Treatment (RSAT) program. You commented that "it was set up for them to fail, and so they would return", and stated that the DOC programs "were a joke". Your actions, particularly in front of inmates, were unacceptable.

During the fact-finding regarding violations of medication policy and procedure, you alleged that other nurses were violating policy and procedure regarding pre-pouring medications, stock medications, and borrowing medications, but refused to provide names, stating "I don't play that game". During the PDC, you again referred to other staff and were given a direct order to provide names, and only then agreed to comply. Your failure to cooperate during the fact-finding was in violation of Section B, Number 29.

You were suspended on March 21, 2001 for an incident that occurred at SCI Albion prior to your transfer to SCI Cambridge Springs for violations of Code of Ethics sections B-8, B-11, and B-22 regarding medication count. You were issued a verbal reprimand on 7

PIERCE, BRIAN

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September 28, 2001, for unprofessional conduct, and issued a written reprimand on November 20, 2001, for failure to treat peers and supervisors with respect, and unprofessional conduct.

Please return any state property including, but not limited to the following items: identification cards, keys, tools, equipment, books, reports, or uniforms to your supervisor before close of business on May 13, 2002.

Your Group Life Insurance Policy ends on your last day of work. Contact Prudential Life Insurance Customer Service at 1-800-893-7316 regarding continuation of life insurance on a self-paid basis.

The PA Employee Benefits Trust Fund will contact you directly concerning continuation of policies on a direct pay basis. You are to return your Prescription Drug Card to the Supplemental Benefits Division of the PEBTF, 150 South 43<sup>rd</sup> Street, Suite 3, Harrisburg, PA 17111-5700. After May 13, 2002, you are no longer permitted to use this or any other employee benefit. It will be necessary to contact the Regional State Employees' Retirement System at PO Box 01561, Seneca, Pennsylvania, 16346 regarding your retirement account. You will be paid by supplemental check for any accrued, unused leave balances.

Your appeal rights in this matter under the Civil Service Act are explained in the instructions and information section on the attached Civil Service Appeal Form, (SCSC-4112).

Your rights in this Personnel Action are explained in the Grievance and Arbitration Section of the AFSCME Master Agreement.

A copy of this letter has been placed in your Official Personnel File.

Sincerely,  
  
Marilyn S. Brooks  
Superintendent  
For  
Jeffrey A. Beard, Ph.D.  
Secretary  
Department of Corrections

MSB/NW

cc: Deputy Good, Deputy Wilkes, N. Wirth, HR Officer, BHR/Labor Relations, SCSC, AFSCME, Z. Rayner

## **ATTACHMENT C**

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

BRIAN D. PIERCE, )  
Plaintiff, )  
-vs- ) Civil Action  
PENNSYLVANIA DEPARTMENT ) No. 03-173E  
OF CORRECTIONS, )  
Defendant. )

DEPOSITION OF: NANCY GIROUX

DATE: January 20, 2005  
Thursday, 1:05 p.m.

LOCATION: Law Offices of Neal Sanders  
1924 North Main Street Ext.  
Butler, PA 16001  
724-282-7771

TAKEN BY: Plaintiff

REPORTED BY: Toni Rennebeck, RPR  
Notary Public  
NMR Reference No. 30738

**CERTIFIED COPY**

1 DEPOSITION OF NANCY GIROUX,  
2 a witness, called by the Plaintiff for examination,  
3 in accordance with the Federal Rules of Civil  
Procedure, taken by and before Toni Rennebeck, RPR, a  
4 Court Reporter and Notary Public in and for the  
Commonwealth of Pennsylvania, at the Law Offices of  
5 Neal A. Sanders, 1924 North Main Street Extension,  
Butler, Pennsylvania, on Thursday, January 20, 2005,  
commencing at 1:05 p.m.

6 - - - -

7 APPEARANCES:  
8

9 FOR THE PLAINTIFF:  
10 Neal A. Sanders, Esq.  
LAW OFFICES OF NEAL A. SANDERS  
1924 North Main Street Extension  
Butler, PA 16001  
11 74-282-7771

12 FOR THE DEFENDANT:  
13 Thomas G. Eddy, Esq.

14 Senior Deputy Attorney General  
Office of Attorney General  
Commonwealth of Pennsylvania  
15 Litigation Section  
6th Floor, Manor Complex  
16 564 Forbes Avenue  
Pittsburgh, PA 15219  
17 412-565-3578

18

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1

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NANCY GIROUX,

2

being first duly sworn,

3

was examined and testified as follows:

4

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EXAMINATION

5

-----  
BY MR. SANDERS:

9 Q. Would you state your full name for the record.

10 A. Nancy Ann Giroux.

11 Q. Ms. Giroux, that is G-I-R-O-U-X?

12 A. Yes; that's correct.

13 Q. My name is Neal Sanders and I'm an attorney here  
14 in the Commonwealth of Pennsylvania. And in  
15 particular we're here today in a civil case  
16 involving Brian Pierce and the Pennsylvania  
17 Department of Corrections and it is pending at  
18 Civil Action No. 03-173 Erie. And it's been  
19 assigned to the Honorable Magistrate Judge Susan  
20 Baxter and Federal District Judge Sean  
21 McLaughlin.22 I want to thank you for coming to my  
23 office in Butler, Pennsylvania this afternoon  
24 for your deposition. You were not the first  
25 witness to be deposed this afternoon but we're

1 Q. A male LPN that had worked at SCI Cambridge  
2 Springs from January of '01 until May of '02.  
3 Does that refresh your recollection?

4 A. Yes.

5 Q. Now, do you recall the vacancy that he filled in  
6 January of '01? The name of the employee who  
7 had left SCI Cambridge Springs where Brian then  
8 filled that position when he came over from  
9 Albion?

## 10 Does Peggy Sue Haight --

11 || A. I was going to say would that be Peggy Haight?

12 Q. Okay. Do you remember Peggy Haight?

13 || A. Yes.

14 Q. Now, was Peggy Haight an LPN?

15 || A. Yes.

16 Q. And would you agree with me that she quit or  
17 resigned as opposed to being terminated?

18 A. Yes.

19 Q. Now, I'm going to throw some names out at you  
20 and see if you can recall any of these people.  
21 You mentioned you knew Judy Weyers.

22 || A. Uh-huh.

23 Q. Is that one of those verbal yeses?

24 A. Yes.

25 || Q. Okay. Do you recall that Judy Weyers was a

1 Q. Okay. Now, other than Brian Pierce, can you  
2 think of any other male RN or LPN that was  
3 terminated under your watch at Cambridge?

4 A. I believe that Brian Pierce is the only one  
5 that's been terminated.

6 Q. Okay. At Cambridge Springs.

7 A. Yes. I'm sorry.

8 Q. I imagine you've heard the name Michael White,  
9 Dominic White's cousin, who was terminated at  
10 Albion?

11 A. Yes.

12 Q. It went to jury trial in Erie in the year 2002?

13 A. Yes.

14 Q. How did you come to know about Michael White or  
15 his case?

16 A. Through Brian Pierce.

17 Q. Is it possible that you also had a discussion  
18 from time to time, or at least one time, with  
19 Maxine Overton about the Michael White case?

20 A. I don't recall any conversations with Maxine  
21 Overton about that case in particular.

22 I believe that most of my information  
23 that I did have, which was minimal, came from  
24 Brian Pierce.

25 Q. Okay. Now, a name has come up in this case by

1                   correctional officer at?

2 A. I don't believe any institution.

3 Q. Do you know why he might be listed as a  
4                   correctional officer for the state?

5 A. No, I don't.

6 Q. What became of Mr. Kelley that he's not employed  
7                   at Cambridge Springs any longer?

8 A. He resigned, or retired I should say. Retired.

9 Q. He was a male individual; correct?

10 A. Yes, sir.

11 Q. Was he an RN or an LPN?

12 A. He was an RN.

13 Q. And you mentioned you knew about Michael White  
14                   you mentioned you thought through Brian Pierce;  
15                   is that correct?

16 A. That's correct.

17 Q. All right. You knew Peggy Sue Haight.

18                   Let's talk about Yvonne McGuire. Is  
19                   Ms. McGuire employed at Cambridge any longer?

20 A. Yes, she is.

21 Q. What is her current position?

22 A. An LPN.

23 Q. When you were at Cambridge Springs and Brian  
24                   Pierce was working as an LPN from January of '01  
25                   to May of '02, did Yvonne McGuire's name ever

1           come up concerning anything that Brian Pierce  
2           was being investigated for?

3   A.   Yes.

4   Q.   Can you give me the names of my female LPN's  
5           that you know first-hand have been terminated  
6           from SCI Cambridge Springs between June of 2000  
7           and May of '02 as opposed to resigning?

8           Actually being terminated for cause?

9   A.   No.  We've had one person that resigned in lieu  
10           of termination.

11   Q.   But in terms of actual terminations you have  
12           none?  No females?  No female RN's, no female  
13           LPN's that have been terminated for cause?

14   A.   No.  As I stated, Brian Pierce is the only one  
15           that I know that was terminated, male or female.

16   Q.   You know from whatever your sources are that  
17           Michael White was terminated.  He was a male LPN  
18           or RN.  You know that; right?

19   A.   Correct.

20   Q.   Do you know of any other females that were  
21           terminated from SCI Albion during the time that  
22           you had interaction with the supervisors and  
23           health care administrators at Albion?

24   A.   No.  I don't know either way.

25   Q.   Sandy -- if I don't pronounce it right you'll

1           become, what did you say, the superintendent?

2 A. Yes. May. I believe it was May of 2004.

3 Q. Do you know Millie Eldred?

4 A. Yes.

5 Q. Who's that?

6 A. Elly Eldred. She's an RN.

7 Q. Is she still employed at SCI Cambridge Springs?

8 A. No, she's not.

9 Q. Is she employed at any SCI?

10 A. She's -- well, I'm sorry, I take that back. She  
11           was just retired as an annuitant at SCI  
12           Cambridge Springs.

13 Q. In other words, she retired and was hired back?

14 A. Yeah, on a temporary basis. I believe it's 90  
15           days.

16 Q. Okay. What month of what year did she leave  
17           initially as a retiree?

18 A. I believe that she retired in November of '04.  
19           Or October of '04. I'm not really quite sure.

20 Q. When Peggy Sue Haight quit in 2000, how was it  
21           that that vacancy was let to be known over to  
22           the folks at Albion?

23 A. It's posted statewide that we have a vacancy.

24 Q. Were there any other individuals who had applied  
25           for that vacancy other than Brian Pierce?

1 A. There was multiple.

2 Q. Did you have anything to do or any contact with  
3 the SCI Albion people before Brian Pierce was  
4 approved for transfer about him coming over and  
5 what his background was?

6 A. As far as a conversation?

7 Q. Yes.

8 A. Yes.

9 Q. With whom would you have talked at SCI Albion?

10 A. Maxine Overton.

11 Q. Anyone else?

12 A. No.

13 Q. What do you recall Maxine Overton telling you  
14 about Brian Pierce?

15 A. That he was a good nurse.

16 Q. Did she tell you that he was under investigation  
17 for an alleged incident in 2000?

18 A. No. I didn't know about that until after he  
19 already came.

20 Q. How did you find out about it after he came?

21 A. Administration had set up a PDC, it's a  
22 predisiplinary conference, for him at our  
23 institution.

24 Q. This Yvonne McGuire, do you know her to be  
25 involved as a union steward or a union rep from

1 time to time?

2 A. She is a union rep for AFSCME.

3 Q. And you're familiar with the fact that there was  
4 problems that were existing between Ms. McGuire  
5 and Mr. Pierce at SCI Cambridge Springs?

6 A. Yes, there was. At times we would meet to  
7 resolve them.

8 Q. From what you know, was Ms. McGuire ever  
9 disciplined for any of the complaints that  
10 Mr. Pierce had made about Ms. McGuire?

11 A. What complaints?

12 Q. Do you not know of any complaints that  
13 Mr. Pierce made about Ms. McGuire in the way  
14 that she was treating him when he came over from  
15 SCI Albion in the first 30 to 60 days?

16 A. I can't really. I don't know. I'd have to look  
17 at the file on McGuire.

18 Q. Isn't it true that you knew or came to know in  
19 early '01 that Mr. Pierce was in and out of  
20 Christine Massung's office repeatedly in  
21 February of '01 concerning what he perceived as  
22 problems that he was getting from Ms. McGuire  
23 who was a union rep at the time?

24 A. I believe that Yvonne McGuire and Mr. Pierce had  
25 personality conflicts.

1 Q. That wasn't my question.

2 My question was did you know about  
3 the fact that Mr. Pierce was in and out of  
4 Christine Massung's office in February of '01  
5 concerning Ms. McGuire?

6 A. Offhand I don't recall that. I just recall my  
7 dealings with Mr. Pierce and Ms. McGuire.

8 Q. Do you know of any discipline that Ms. McGuire  
9 has received, any written discipline that  
10 Ms. McGuire has received since January of '01?

11 A. Not without looking at a file.

12 Q. Do you know whether she was ever suspended since  
13 January of '01 to the present?

14 A. No, she has not been suspended.

15 Q. Do you know whether she's ever been the subject  
16 of any kind of an investigation since January of  
17 '01?

18 A. Yes.

19 Q. What were some of the issues that were being  
20 investigated about Ms. McGuire?

21 A. Since '01?

22 Q. Since January of '01. Since Brian came over to  
23 you from SCI Albion.

24 A. I believe that there was some comments that she  
25 had made to another staff member and there was

1                   an investigation on that.

2 Q.           What were the comments alleged to have been?

3 A.           She had made a comment to a staff member that  
4                   was calling off frequently that she didn't  
5                   appreciate -- and I don't remember -- I can't  
6                   quote her, but that she didn't appreciate all  
7                   the calls because the other LPN's were getting  
8                   stuck doing her overtime.

9 Q.           Anything else?

10 A.           There's an investigation now about several staff  
11                  members that had made inappropriate comments to  
12                  another staff member.

13 Q.           Was she one of them?

14 A.           She's one of them, yes.

15 Q.           Okay.

16 A.           And that investigation is ongoing.

17 Q.           Were any of those other individuals being  
18                  investigated female?

19 A.           Can you clarify?

20 Q.           Is Yvonne McGuire female?

21 A.           Yes.

22 Q.           Are any of the other individuals under  
23                  investigation currently now, along with  
24                  Ms. McGuire, female?

25 A.           Yes.

1 to mention her name, Nancy, but this inmate is a  
2 female; correct?

3 A. Correct.

4 Q. And the fact that this is addressed to you and  
5 ended up in Mr. Pierce's personnel file, would  
6 that indicate that this would have come across  
7 your desk or to your attention at some point in  
8 time after it was directed to you?

9 A. Yes.

10 Q. Do you have an independent recollection of  
11 interviewing Yvonne McGuire with regards to  
12 this?

13 A. To be honest, I don't. Either way I don't  
14 remember.

15 Q. Do you have an independent recollection after  
16 reading it, as you sit here today, of having  
17 done anything after you got this?

18 A. With this one, no, not in particular. I'd like  
19 to state that when these did come across my desk  
20 I looked into all of them.

21 Q. But you don't have any independent recollection  
22 as you sit here today --

23 A. No.

24 Q. -- as to what, if anything, you did?

25 A. No, I do not.

1 (The witness reviewed the document.)

3 A. I'm reading it.

4 BY MR. SANDERS:

5 Q. Take your time.

6 A. It should not be on here.

7 Q. Okay. But there's no mention of his name notwithstanding; is that correct?  
8

9 A. Correct.

10 Q. And your recollection as you sit here today is  
11 that you did not issue any type of verbal  
12 warning or any kind of reprimand to  
13 Ms. Pietrzak, only to Mr. Pierce?

14 A. No, Ms. Pietrzak received a written reprimand as  
15 well.

16 Q. Have you issued anymore than that one to her in  
17 the time that she's worked for you?

18 A Yes

19 Q. And is she still employed with you?

20 A No she's not

21 Q. I think you mentioned earlier she's since left  
22 for disability?

24 Q. Did you ever recommend prior to her leaving for  
25 disability did you ever recommend to anyone

1 senior to you at SCI Cambridge, or at Camp Hill,  
2 or any other location in the system for the  
3 Department of Corrections any stiffer penalty  
4 for Ms. Pietrzak other than a written warning or  
5 written reprimand? In other words, a  
6 termination or a suspension?

7 A. Ms. Pietrzak was facing a PDC prior to her going  
8 on disability.

9 Q. Was the PDC something that involved conduct at  
10 SCI Cambridge Springs?

11 A. Yes, it does. The particulars I really don't  
12 remember at this point in time, but I'd have to  
13 go back and look at her file. But, yes, I  
14 remember that it was a PDC that she was facing  
15 prior to her resigning.

16 Q. But she wasn't -- again this is the one we  
17 talked about earlier. She did not get  
18 terminated.

19 A. No. She had been off for several months I  
20 believe on disability prior to retiring.

21 Q. Do you know any other female professionals, RN's  
22 or LPN's, facing termination that left on a  
23 disability other than her since you've been at  
24 SCI Cambridge Springs?

25 A. No, I don't think so.

1           Mrs. Purvis? Is that what you said,

2           Mrs. Purvis?

3   A. Who's Mrs. Purvis? No, I don't know --

4   Q. Who was it? Mrs. Verga you said?

5   A. Mrs. Verga. There's a gentleman by the name of  
6           Mr. Verga who is an RN II at Albion. His wife  
7           worked at our institution for a short period of  
8           time.

9   Q. Okay. Do you remember her first name?

10   A. No, I don't.

11   Q. So the individuals on this report of incident on  
12           June 15 of '00 that you are familiar with would  
13           be Ms. Weyers, Mr. Pierce, Mr. Verga; correct?

14   A. Correct. Again I may have met other ones but I  
15           wouldn't recognize their names when I did their  
16           management review.

17   Q. Is it possible you did a management review for  
18           Michael White?

19   A. No. A management review is when you sit down in  
20           a room and you review all of the medical charts  
21           from that area. Each staff member would have to  
22           go to another institution to do a management  
23           review.

24   Q. So you've gone to Albion to do that?

25   A. I went once, yes.

1 A. They had had some problems.

2 Q. Can you think of the name of any male union  
3 stewards at that time? April of 2002.

4 A. I know. I'm thinking.

5 Q. Oh, I'm sorry.

6 A. I know that the head was a gentleman by the name  
7 of Mr. Zolie.

8 Q. Is it your testimony that Mr. Zolie was on site  
9 in Cambridge Springs in April of '02?

10 A. No. You're asking about a union rep and  
11 Mr. Zolie was the head for this region. For our  
12 region.

13 Q. All right. But he was not on site as Sharalee  
14 was?

15 A. No.

16 Q. Sharalee actually worked at SCI Cambridge  
17 Springs at the time, didn't she?

18 A. Yes.

19 Q. Just like Yvonne McGuire did.

20 A. Yes.

21 Q. All right.

22 A. I'd like to state that it would be AFSCME  
23 representatives. They represented the clerk  
24 typists and also the LPN's.

25 - - -

1 Q. Is it your claim that you investigated this  
2 matter as well?

3 A. Yes, I did.

4 Q. Did anybody help you with the investigation?

5 A. No, I don't believe so.

6 Q. What was the result of your investigation? Did  
7 any of the individuals on this list receive any  
8 discipline?

9 A. Again I can't recall. I'd need to check my  
10 records.

11 Q. But we know which ones are still employed and  
12 which ones are not; correct?

13 A. Yes.

14 Q. You've already told me about all of them.

15 A. Yes.

16 Q. All right.

17 Do you remember my client being  
18 terminated on or about May 13 of '02?

19 A. Yes.

20 - - - -

21 (Deposition Exhibit No. 16 marked for  
22 identification.)

23 - - - -

24 (The witness reviewed the document.)

25 - - - -

1                   the one that was initiated against Mr. Pierce?

2 A.    That would be superintendent Brooks.  Or the  
3                   superintendent determines whether or not a PDC  
4                   will occur.

5 Q.    Are you aware of the fact that Mr. Pierce sought  
6                   to get unemployment compensation?

7 A.    Yes.

8 Q.    Do you know the outcome of that proceeding?

9 A.    It was denied.

10 Q.   Do you know if the same allegations or defenses  
11                   to him obtaining unemployment were used in that  
12                   proceeding as it served as the basis for his  
13                   termination from the Department of Corrections?

14                   MR. SANDERS:  I'm going to object on  
15                   the grounds of speculation.

16 BY MR. EDDY:

17 Q.    Well, you've seen Exhibit 18 I believe it is.

18                   MR. EDDY:  Off the record.

19                   - - - -

20                   (There was a discussion off the record.)

21                   - - - -

22 BY MR. EDDY:

23 Q.    You were shown a copy of Exhibit 18.

24                   - - - -

25                   (The witness reviewed the document.)

1  
2 A. Yes.

3 BY MR. EDDY:

4 Q. And that is essentially the letter that notifies  
5 Mr. Pierce that he's been terminated; is that  
6 right?

7 A. Yes.

8 Q. Are you familiar with the charges that have been  
9 levied against Mr. Pierce in that termination?

10 A. Yes.

11 Q. In fact, you testified you were at that hearing.  
12 The PDC hearing.

13 A. Yes.

14 Q. Do you know whether or not those same criteria  
15 that were used for his termination were also  
16 used in connection with his unemployment  
17 hearing?

18 A. Yes. When Mr. Pierce had gone to the  
19 unemployment hearing, I was also there as a  
20 witness, and at that time Mr. Pierce had called  
21 multiple nurses to that hearing and each one of  
22 them --

23 The hearing examiner had asked if  
24 they had done any of these things, and each one  
25 of them had said at one time or another they had

1 done it, and each one had been disciplined for  
2 it, and that each one of them had stopped doing  
3 it.

4 And the basis of the unemployment  
5 hearing, I believe, the denial was -- and this  
6 is my thoughts -- was that when she questioned  
7 Brian Pierce if he had done these things, and he  
8 had said, yes, he had. When she had asked if he  
9 had been disciplined, he said, yes, he had. And  
10 when she asked him if he had stopped doing this,  
11 he said, no, he had not because he felt that he  
12 was in the right so he did not stop the  
13 practice.

14 Q. So if I understand what you're saying correctly,  
15 he produced witnesses at his unemployment  
16 hearing that he felt had done the same things  
17 that he did for which he was terminated and  
18 these individuals were not terminated?

19 A. That's correct.

20 Q. But Mr. Pierce stated that he either failed or  
21 refused to correct those procedures whereas the  
22 other witnesses said that they did comply with  
23 the corrective behavior; is that what you're  
24 saying?

25 || A. That's correct.

1 Q. You said that you agreed with the decision to  
2 terminate Mr. Pierce as contained in Exhibit 18.

3 A. (The witness nods head up and down.)

4 Q. I'll just ask you why do you agree with that  
5 decision?

6 A. I agree with the decision because even with  
7 everything that was going on, Mr. Pierce was  
8 showing no indication that he was going to  
9 change his behavior.

10 Q. When you stated I believe that you investigated  
11 all of the various commonwealth employee witness  
12 statements that were submitted by Mr. Pierce  
13 that we've seen I think as Exhibits 12, 13 -- or  
14 13, 14, 15, 16 and 17, you said that you  
15 investigated all of those statements that he  
16 made?

17 A. Yes. Each person was called in and interviewed.

18 Q. Were you able to corroborate any of his  
19 allegations in those statements?

20 A. I believe that most of the statements that he  
21 had claimed were not founded.

22 Q. Did you find any to have any merit?

23 A. Yes, I do believe that there was some that had  
24 admitted to some of those accusations.

25 Q. Do you remember what you did as to those

## EQUAL EMPLOYMENT OPPORTUNITY DISCRIMINATION COMPLAINT

15 16 17 18 19

OCT 26 2001

PERSONNEL  
SCH-2COMMONWEALTH OF PENNSYLVANIA  
STD-484  
REV. 2/97Equal Employment Opportunity  
DISCRIMINATION COMPLAINT

The information on this form should be completed for all alleged discrimination and sexual harassment complaints. The completed complaint form should be signed by the complainant. Upon completion, please forward to the Equal Opportunity Manager/Socialist or the individual responsible for EEO in your agency.

DOCKET NO. 2001-04

DEPARTMENT NAME AND ADDRESS

SCI - Cambridge Springs

451 Fullerton Ave.

Cambridge Springs, PA 16403

## 1. COMPLAINANT'S NAME

HOME TELEPHONE NO.

ARE YOU CURRENTLY EMPLOYED BY THE ABOVE  
DEPARTMENT?

BRIAN PIERCE

(814) 398-2574

 YES NO

313 S. Main St. Cambridge Springs PA 16403

## 2. PRESENT JOB TITLE

STATUS

WORK UNIT

LPN

Permanent Full Time

Medicare

## 3. LOCATION

WORK TELEPHONE NO.

LENGTH OF SERVICE IN CLASSIFICATION

SCI - CBS

(814) 398-5549

7 years

## 4. DATE OF THE ALLEGED DISCRIMINATORY PRACTICE

10-15-01

## 5. THE DISCRIMINATION OCCURRED IN CONNECTION WITH

RACE  
 SEX  
 NATIONAL ORIGIN  
 ANCESTRY  
 RELIGION

AGE  
 DISABILITY  
 RETALIATION  
 OTHER (SPECIFY)

Hostile Working Environment

INTERVIEW  
 HIRING SELECTION  
 PROMOTION  
 LAYOFF  
 TRANSFER

DISCIPLINARY ACTION  
 COMPENSATION  
 TRAINING OPPORTUNITY

 OTHER (SPECIFY)

N/A

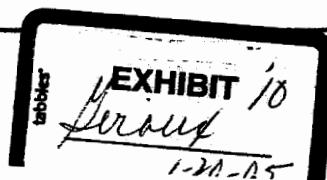
## 6. THE FACTS OF THE ALLEGED DISCRIMINATORY EMPLOYMENT PRACTICE ARE:

- See Attached -

S. Pietrzak and I have had numerous confrontations in the last 9 months in regards to my wanting to change a few policies and procedures in order to help make the department more efficient. She has also stated her distaste for my ability to take the initiative without requiring her guidance or direction. As a result of those confrontations, this incident occurred. During the 15 OCT incident, other staff members took the initiative to begin mobilizing the department for the drill, and they were not berated in front of their peers or inmates for their forethought. I was. I later found out that Pt. Stiborowski witnessed the initial outburst by Ms. Pietrzak, and that Inmate Strawbridge of 8326 was in her wheelchair in the hall outside the door when Ms. Pietrzak first addressed me.

(OVER)

Enclosure 2 to Management Directive 410.10 Amended



Page 1 of 2

32

## COMMONWEALTH EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Commonwealth business and will be considered for all purposes, including actions under the Statutes of this Commonwealth, just as though it had been sworn or affirmed before a court of law or formal arbitration panel.

On 10-15-81 I entered the institution at about 1:30pm. I saw inmates going back to their housing units and I was told that there was a drill going on. As I got to building 3, PA Styborski met me on the walk and told me about the drill going on. I entered building 3 and into medical at about 1:55pm and all the staff were talking about the drill. I talked briefly with Y. McGuire LPN about a few issues and then went into the pharmacy to count with P. Smith. After we finished counting, Y. McGuire and I exited medical and went on the walk in front of building 3. SGT. DeCoursey was coming down the walk from building 1. Y. McGuire asked if she knew what was going on. SGT. DeCoursey said she did and that she had "found out by accident." I followed SGT. DeCoursey into building 3 and I asked her if she knew how long the drill was going to last. She told me that she did not know. I asked her if she knew if we were going to have to pass medications on the housing units. She said she didn't know. I said that we would need to know as soon as possible because it might take an hour to prepare to do that. She then advised Lt. Wadel + he called her back on the phone. She related the information to him and she told me that he would have to find out.

10-16-21

Date

Brown bear

Signature

Date

Typist's Signature

NOTE: This form is to be completed and signed by an employe who is a witness to an incident involving the employes of the Commonwealth. If the text is typed by someone other than the employe giving the statement, the party typing the statement must sign and date the document.

## COMMONWEALTH EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Commonwealth business and will be considered for all purposes, including actions under the Statutes of this Commonwealth, just as though it had been sworn or affirmed before a court of law or formal arbitration panel.

I then went into medical and was talking to M. Kelly RN and T. Zuber RN. A few minutes passed and the building 3 officer came to us and told us that Lt. Wadel told him to tell us that we were to prepare to pass meds on the housing units. I went and told S. Pietrzak about what Lt. Wadel had said. She then began to organize the staff and had S. Cooper RN try to get a list of inmates by housing unit. M. Kelly and T. Zuber and I went into the medication room and began to prepare for the medication pass. I asked S. Pietrzak RN what meds needed to be pass only life-sustaining meds needed to go. She then called C. Maslany RN for confirmation and we were directed to give only life sustaining meds and Antibiotics. I passed this information along to M. Kelly and T. Zuber and we completed our assigned tasks.

10-16-01

Date

Bonnie Piner

Signature

Date

Typist's Signature

NOTE: This form is to be completed and signed by an employee who is a witness to an incident involving the employees of the Commonwealth. If the text is typed by someone other than the employee giving the statement, the party typing the statement must sign and date the document.

## COMMONWEALTH EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Commonwealth business and will be considered for all purposes, including actions under the Statues of this Commonwealth, just as though it had been sworn or affirmed before a court of law or formal arbitration panel.

Not long after we had prepared to pass medications on the units, SGT. Decourcey entered medical and went into the room where S. Pietrzak was sitting. A few minutes later SGT. Decourcey came out of the room with S. Pietrzak right behind her. At that time, in the presence of SGT. Decourcey, M. Kelly, and T. Zuber, S. Pietrzak used a loud, hostile and demeaning tone and language to belittle me in front of my peers. She then went to C. Massung's office. T. Zuber came to me and asked "What was that all about?" About 5 minutes later S. Pietrzak re-entered the nurse's station and began to harass me again in the presence of staff. At that time I told her that if she had a problem with me, she needed to address it to me in private or in C. Massung's office and that I did not appreciate the demeaning way I had been treated earlier as well as now. She agreed to go to C. Massung's office, but C. Massung arrived in the nurse's station. S. Pietrzak then took an aggressive posture and began to "stare me down" with a hateful, angry stare. She then began to belittle me in the presence of my employer. We both began to exchange words in a loud manner.

10-16-01

Date

Date

Bonnie Linn

Signature

Typist's Signature

NOTE: This form is to be completed and signed by an employee who is a witness to an incident involving the employees of the Commonwealth. If the text is typed by someone other than the employee giving the statement, the party typing the statement must sign and date the document.

### COMMONWEALTH EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Commonwealth business and will be considered for all purposes, including actions under the Statutes of this Commonwealth, just as though it had been sworn or affirmed before a court of law or formal arbitration panel.

C. MASSUNG stood by and observed, but did not intervene. At one point she walked away from us and entered S. Cooper's office. S. Petrank and I continued to exchange words, and as I was trying to explain what had happened to her, she began yelling "stop pointing at me!" "I consider that a threat!" At which point C. MASSUNG came out and S. Petrank asked her "Did you see that? It threatened me!" C. MASSUNG covered her eyes and stated "I didn't see anything. I have a bad headache." At which point S. Petrank began verbally attacking me and my character. C. MASSUNG then said we needed to go to her office. We agreed, and began to go to her office. S. Petrank stopped and said she was going to bring someone in with her. I said that I wanted union representation as well, and since no one was on site at that time, we would have to wait and do it another day. At that, S. Petrank became angry and went into medical.

10-16-01

Date

Bru Reu

Signature

Date

Typist's Signature

NOTE: This form is to be completed and signed by an employee who is a witness to an incident involving the employes of the Commonwealth. If the text is typed by someone other than the employee giving the statement, the party typing the statement must sign and date the document.

## COMMONWEALTH EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Commonwealth business and will be considered for all purposes, including actions under the Statutes of this Commonwealth, just as though it had been sworn or affirmed before a court of law or formal arbitration panel.

I was so shaken by the confrontation, that I had fear of retaliation and the possibility of having insubordination charges put on me by S. Pietrzak if I stayed, that I went to C. Massing and told her that I was leaving. S. Cooper was in the room for the conversation and was a witness to the folks. I told C. Massing that "I am afraid of retaliation by Sandy, and that I can't work in this hostile environment." I told her that I was very upset and stressed out by what happened and that I did not appreciate being treated like that by S. Pietrzak, especially in front of my peers. C. Massing asked when I would like to have the meeting to resolve the issues, and I said tomorrow (10-16-01). She told me that she was not going to be here, and I said, "Then how about wednesday?" She told me that she was going to be out all week and she wanted it to be handled by the Deputy. I told her that I would like to "keep it in-house" if possible and try to resolve it first. C. Massing then said "well who's going to make the decision? who's going to handle this?" I simply said for her "you." She then told me that she will be back on Monday and we could do it then.

10-16-01

Date

Barbara

Signature

Date

Typist's Signature

NOTE: This form is to be completed and signed by an employee who is a witness to an incident involving the employees of the Commonwealth. If the text is typed by someone other than the employee giving the statement, the party typing the statement must sign and date the document.

### COMMONWEALTH EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Commonwealth business and will be considered for all purposes, including actions under the Statutes of this Commonwealth, just as though it had been sworn or affirmed before a court of law or formal arbitration panel.

I said that that would be fine. C. Massung told me that she was not sure I could take sick time for this, but that she would call personnel to clarify. S. Cooper told me that I should count off with someone before I left, so I did. While Izuber and I were counting, C. Massung told me that I could go, but I needed a doctor's excuse to justify my leaving. I told her that it was no problem and then thanked her. Shortly after that I left the institution at 4:45 pm.

*nothing else follows*

10-16-01

Date

*Bonnie Pur*

Signature

Date

Typist's Signature

NOTE: This form is to be completed and signed by an employee who is a witness to an incident involving the employees of the Commonwealth. If the text is typed by someone other than the employee giving the statement, the party typing the statement must sign and date the document.

**COMMONWEALTH EMPLOYEE WITNESS STATEMENT**

The following statement is being given by me freely and without coercion for official Commonwealth business and will be considered for all purposes, including actions under the Statues of this Commonwealth, just as though it had been sworn or affirmed before a court of law or formal arbitration panel.

On 10-16-01 I came into work. upon entering medical, I was told by P. Smith RN and A. Chapman RN that the night shift nurse L. Mallard had told them in shift report that S. Pietrzak and I had an argument and that I walked off property. They told me that I was "bad mouthed" by S. Pietrzak on shift change with L. Mallard.

Later on, S. Cooper called me into her office and told me that S. Pietrzak was telling as many staff as she could "a very slanted" side of the picture and that she was making it look like she did nothing wrong. Also, S. Cooper told me that C. Massung had come in to her office this morning and was saying terrible things about me and that I was a "cold, calculating individual" and it was part of his Agenda. S. Cooper also observed C. Massung talk to several of the staff on 10-15-01 and 10-16-01 about this incident. I feel this only further encourages a hostile working environment and that by making slanderous comments about me to other staff my peers is wrong!

10-16-01  
\_\_\_\_\_  
Date

*Janice*  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typist's Signature

NOTE: This form is to be completed and signed by an employee who is a witness to an incident involving the employees of the Commonwealth. If the text is typed by someone other than the employee giving the statement, the party typing the statement must sign and date the document.

COMMONWEALTH OF PENNSYLVANIA  
 Department of Corrections  
 SCI-Cambridge Springs  
 (814) 398-5400  
 April 12, 2002

**SUBJECT:** Brian Pierce LPN  
 Fact finding 4/11/02 at 1415

**TO:** Nancy Wirth  
 Human Resource Director  
 Nancy A. Giroux  
**FROM:** Nancy A. Giroux  
 Correctional Health  
 Care Administrator



It was brought to my attention by fellow co-workers that over the last two weeks Mr. Pierce is not following medication room procedures and his behavior has been inappropriate. Y. McGuire, C. Heffern, T. Zuber, S. Cooper, and S. Pietrzak have provided statements (attached) to substantiate these complaints.

Overall synopses of these complaints are:

- Pre-pouring medication prior to the med line starting
- Leaving the pre-poured medications unattended prior to the med line
- Not crushing psychiatric medications nor placing them in water
- Borrowing medication from other inmates instead of utilizing stock meds
- Not signing out stock medications
- Not checking inmate ID's during the med line
- Not following procedures regarding dispensing of medication in the RHU
- Inappropriate conversations with inmates regarding DOC programming
- And informing inmates that he is "in a bit of trouble" and leaving
- Providing misinformation to LT regarding med room procedures and supervisors expectations.

During the fact finding with Mr. Pierce we covered many areas of concern. Mr. Pierce was asked if he is aware of the medication room procedures and where it is located. He stated he was and that there was a copy in the med room and one in his mailbox. Mr. Pierce stated that he "generally checks ID's and "always checks the MAR's. He also stated that he is crushing at least 75-80% of all psych meds and places them in water. He states that he is not pre-pouring medications and that he does not leave the medication unattended. He states that he is utilizing the stock medication and signs out the stock meds. He admits to borrowing medications from other inmates on a regular basis and then clarifies that he borrows only when not available in stock and it's a medication the inmate requires. He also admits to placing medication (Benadryl and CTM) in individual cups but clarifies that it is from the stock bottles not from the blister

Brian Pierce Fact Finding 4/11/02  
Page two  
Continued

packs. Mr. Pierce states that his counterparts all do the same thing, he does not do it any more frequently than they do. Mr. Pierce was questioned about the RHU practice of how medication is dispensed to the inmates in the RHU and in particular the incident that occurred on 4/7/02. Mr. Pierce stated that he did deliver the medication to the RHU in cups in his pocket and he did not have the MAR or the RHU bag. He stated that he now knows what is expected of him after our conversation on Monday (4/8/02) but states he must have been confused about this issue prior to that. When I questioned him about the conversation we had on 3/11/02 regarding this issue, he stated he didn't remember having a conversation with me and then later stated that we talked about so many different things that he couldn't remember what we talked about. Mr. Pierce verbalized throughout the conversation that he understood the procedures regarding checking inmates ID's, crushing psych meds, borrowing medications and the usage of stock medications. Again Mr. Pierce stated that all his counterparts do the same thing that he does and if "they were honest they would tell you". Requested that Mr. Pierce provide me with the names of staff members that were violating med room procedures and he stated that he would not do that. At the end of the conversation he stated that he would provide me with the names if the nurses are not honest and tell me myself. "Call me in after you speak with them".

I also discussed with Mr. Pierce the issue of count being off on 4/1/02. The narcotic sheet read that we had 28 tablets of xanax 1mg and the blister pack contained 29. When count had been completed on the 2-10 shift the discrepancy was not picked up and was not discovered until the 600-hour count. Refer to the EO's attached. Mr. Pierce's explanation was that the count was correct at 2200 hrs and that he distinctly remembers giving inmate Houck two tablets. Therefore "someone disposed of the whole card of 28 xanax. I repeated his accusations and he stated count was correct at 2200 and was off at 600. Winkler didn't state that the count was incorrect at 2200 hrs so it wasn't. Again I asked are you insinuating that someone, meaning Winkler took a whole card of a narcotic? Pierce stated, it was a full card and I punched out two tablets that left 28 tablets. At 600 hrs the card had 29 tablets.

We then discussed his conversation with the inmates regarding the DOC programs and in particular the RSAT program. Mr. Pierce states that he did talk to the inmates about the programming. The conversation started out about the inmates questioning him about leaving and that he acknowledges that he is leaving within the next year or two. That he is looking for a counseling job within the DOC because he believes that he can provide the inmates with the skills needed to succeed out in the world. Mr. Pierce states that the inmates expressed sorrow over his leaving and that they told him he is the only one who cares. He talked about being able to better help them, equip them, and provide them with the tools to succeed. The inmates were commenting about programming and he stated, "It was a joke". When questioned about this Mr. Pierce stated that the inmates tell him it's a joke. I questioned Mr. Pierce about the differences between one inmate talking to another and a staff member talking to an inmate. Don't you think that

Brian Pierce Fact finding 4/11/02  
Page three  
Continued

the inmates will place more weight on a statement made by a staff member? Pierce's response -"Truth is truth". "I was only telling them what the inmates have been telling me".

The majority of the nurses who dispensed medication in the med room were called into this office one at a time and informed that it was an official investigation and a breach in the code of ethics if they discussed this with other staff members. They were all asked the same questions pertaining to medication room policy and procedures and their interpretation of the policies. The last question asked was if they were aware of any nurse violating these procedures, if so who and how? All response from the 2-10 shift were that Mr. Pierce was violating multiple procedures in the med room, on 6-2 Ms McGuire stated Pierce and Ms Coopers statement collaborates this premise also.

#### Conclusion

There is a medication room procedure book housed in the med room, multiple memos posted in the med room, signs posted outside the med room windows and all staff questioned have been able to voice what the departments expectations regarding procedures in the med room. Mr. Pierce was able to verbalize when questioned the proper procedures required regarding inmates ID's, psych meds, stock meds, borrowing medications and pre-pouring medications. He states he was confused on the issue of the delivery of RHU medications and stated that he doesn't agree with our interpretation of pre-pouring but was able to state clearly what our expectations were.

The collections of statements from other staff members who have been working in the med room with Mr. Pierce clearly show that Mr. Pierce is not following medication room procedures. He has consistently over the last several weeks not checked the inmates ID's, is not crushing the psych medications nor placing them in water. He is not utilizing the stock supply of medications and instead is borrowing medications from other inmate's blister packs. This is creating problems when we attempt to re-order the inmates medications that have been borrowed due to it being an early refill. He is taking blister pack cards of stock medications and punching them out into cups i.e. CTM and Benadryl 50mg both, which are prescription medications. He is not signing the medications out and the stock inventory sheet is disappearing. It has been witnessed that he is pre-pouring inmates medications prior to the med line opening and then dispensing them. It has also been witnessed that he pre-poured the medications and then left the area, that goes against his theory or definition of pre-pouring medications. He was spoken to on 3/11/02 when he had dispensed medications to the RHU inappropriately and the proper procedures were reviewed with him. Therefore I do not believe that Mr. Pierce was "confused" regarding our expectations and procedures for the delivery of RHU medications. Several witnesses have written statements regarding Mr. Pierce's conversations with the inmates and have found them to be inappropriate.

Brian Pierce Fact Finding 4/11/02

Page four

Continued

Ms Heffern witnessed the conversation between Mr. Pierce and the inmates out in the hallway on 4/5/02 and Mr. Pierce recounted his conversation with the inmates to Mr. Zuber, Ms Pietrzak and Ms Heffern later that evening. The statements demonstrate that Mr. Pierce was promoting himself and indicating that the programs and the RSAT program were a joke and designed to set the inmates up for failure.

Mr. Pierce avoided all responsibility regarding the incident with the count being incorrect. All information points to the fact that that the count was incorrect at 2200 hrs and that Mr. Pierce dispensed one tablet instead of two as ordered. Ms Winkler should have noted the error during count at 2200 hrs but did not for whatever reason. Ms Winkler states that count was a little confusing because Mr. Pierce was signing out some of his narcotics that he dispensed that evening during count. Mr. Pierce indicates that he believes that another staff member took a whole card of the xanax and disposed of it, which in his opinion accounts for the narcotic count being off. His scenario doesn't make any sense and the allegations he is making are extremely serious. I researched the narcotic issue personally and had Ms Cooper RNII research the issue independently to confirm my findings. Our conclusion is that the xanax is accounted for and that there are no medications missing, never mind a whole card. See the attached copies of the narcotic sheets and the copy of the blister pack which states the date the medication was filled by the pharmacy and how many tablets they sent. Also attached is Ms Cooper's statement confirming these findings.

These allegations constitute a violation of the code of ethics, specifically **Section B. Specific Rules and Regulations-Department of Corrections; section 9.** Lawful orders by a supervisor to a subordinate must be executed promptly and faithfully by the subordinate even though the employee may question the wisdom of such an order. **Section 10;** Employees are expected to treat their peers, supervisors and the general public with respect and conduct themselves properly and professional at all times; unacceptable conduct or insolence will not be tolerated. **Section 14;** employees will promptly report to their supervisor any information which comes to their attention and indicates violation of the law, rules, and/or regulations of the Department of Corrections by either an employee or an inmate, and will maintain reasonable familiarity with the provisions of this directives. And **section 29;** All employees shall comply and cooperate with internal investigations conducted under the authority of the Department of Corrections, and respond to questions completely and truthfully. Procedures in cases that may result in criminal prosecution will include those rights according to all citizens of the commonwealth.

NG/ng

CC    Superintendent Brooks  
          Deputy Good  
          Deputy Wilkes

*"Our mission is to protect the public by confining persons committed to our custody in safe, secure facilities and to provide opportunities for inmates to acquire the skills and values necessary to re-integrate into society and to protect the rights of crime victims."*

COMMONWEALTH : PENNSYLVANIA  
Department of Corrections  
SCI-Cambridge Springs  
(814) 398-5400  
November 20, 2001

**SUBJECT: Written Reprimand**

TO: Brian Pierce  
*Nancy A Giroux*  
FROM: Nancy A Giroux  
Nursing Supervisor

Mr. Pierce, it has been determined that you will receive a written reprimand for the incident that occurred on 10/15/01 involving Ms. Pietrzak.

Specifically relating to the altercation between Ms Pietrzak and yourself that occurred on 10/15/01 on the 2-10 shift during an emergency drill.

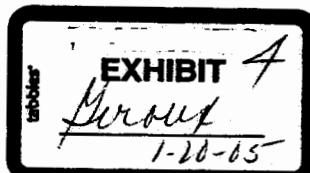
This is a violation of the Department of Corrections Code of Ethics, Section B, Number 10 which states 'Employees are expected to treat their peers, supervisors and the general public with respect and conduct themselves properly and professionally at all times; unacceptable conduct or insolence will not be tolerated.'

As we have discussed, in situations like this you should remove yourself from the general medical area to continue the conversation. It should not be conducted in a public area that can be overheard by other staff and inmates that can cause embarrassment to both parties involved. If the issue cannot be resolved between the two parties then the conversation should be terminated at that time by mutual agreement and continued/resolved with a mediator (supervisor) at a future time and date. You antagonized the situation by speaking in a loud tone, pointing your finger at Ms Pietrzak repeatedly when she requested you not to and making derogatory statements about her character. This situation was not handled in a professional manner as is expected of DOC employees.

You are advised that continuation of such unacceptable actions will result in further disciplinary action, which may include suspension and/or termination. This written reprimand will be placed in your Personnel file and can remain there for up to one year.

NG/ng

CC N Wirth-Human Resource Director  
C. Massung CHCA  
Supervisor's File



FREY A. BEARD, Ph. D  
SECRETARY  
DEPARTMENT OF CORRECTIONS

WILLIAM J. LOVE  
DEPUTY SECRETARY  
FOR  
SPECIALIZED FACILITIES &  
PROGRAMS

COMMONWEALTH OF PENNSYLVANIA  
STATE CORRECTIONAL INSTITUTION  
AT CAMBRIDGE SPRINGS

451 Fullerton Avenue  
Cambridge Springs, PA 16403-1229  
Telephone 814-398-5400

MARILYN S. BROOKS  
SUPERINTENDENT

Address All Replies  
To Superintendent

April 17, 2002

Brian Pierce  
313 Main Street  
Cambridge Springs, PA 16403

EXHIBIT 12

1-20-05

Dear Mr. Pierce:

Employee#456590

This is to advise you that a Pre-Disciplinary Conference has been scheduled for Tuesday, April 23, 2002 at 2:00 pm in the Conference Room of Building One (Administration Building). At the Pre-Disciplinary Conference, you will be offered the opportunity to respond to reports of incidents that may have occurred while you were a Licensed Practical Nurse, Permanent Civil Service Status, with the Department of Corrections at the State Correctional Institution at Cambridge Springs. Allegations involve violation of the following sections of the Department of Corrections Code of Ethics:

Section A, General Responsibility of Department of Corrections Employees: Consistent with the responsibility of all correctional employees in the Commonwealth of Pennsylvania to perform their duties with integrity and impartiality and to avoid situations whereby bias, prejudice, or personal gain could influence official decisions, the following code is being promulgated.

Section B, #1: Specific Rules and Regulations – Department of Corrections: Each employee in the correctional system is expected to subscribe to the principle that something positive can be done for each inmate. This principle is to be applied without exception.

This involves an intelligent, humane and impartial treatment of inmates. Profanity directed to inmates, or vengeful, brutal, or discriminatory treatment of inmates will not be tolerated. Corporal punishment shall not be utilized under any circumstances.

Section B, #9: Lawful orders by a supervisor to a subordinate must be executed promptly and faithfully by the subordinate even though the employee may question the wisdom of such order. The privilege of formally appealing the order may be done at a later date through either the supervisory command structure, civil service appeal, or the grievance machinery.

Section B, #10: Employees are expected to treat their peers, supervisors and the general public with respect and conduct themselves properly and professionally at all times; unacceptable conduct or insolence will not be tolerated.

*"Our mission is to protect the public by confining persons committed to our custody in safe, secure facilities, and to provide opportunities for inmates to acquire the skills and values necessary to become productive law-abiding citizens; while respecting the rights of crime victims."*

PIERCE, BRIAN

PAGE 2

Section B, #14: Employees will promptly report to their supervisor any information which comes to their attention and indicates violation of the law, rules, and/or regulations of the Department of Corrections by either an employee or an inmate, and will maintain reasonable familiarity with the provisions of such directives.

Section B, #29: All employees shall comply and cooperate with internal investigations conducted under the authority of the Department of Corrections, and respond to questions completely and truthfully. Procedure in cases that may result in criminal prosecution will include those rights accorded to all citizens of the Commonwealth.

Alleged incidents include reports of the following:

On March 9, 2002, medication line was completed early and you may have pre-poured certain medications in violation of policy. After being questioned by an officer on duty about whether you pre-poured medications on March 9, 2002, you decided to change procedure and called one unit at a time on March 10, 2002, thereby significantly delaying completion of medication line. On March 20, 2002, on the 0600 to 1400 shift, after the medication line was closed, three inmates arrived for their medication. The RN on duty (team leader) contacted the unit officer and was advised that the inmates were late returning from meal and reporting to medication line through no fault of their own. You nonetheless refused to open the medication window, even though one of the inmates was on an anti-epileptic life-sustaining medication, stating that "they came late, fault doesn't matter". You were ordered by the team leader three times to open the window before complying.

On April 1, 2002, there was an error in count on a card of Xanax. The narcotic sheet you completed and signed indicated that we had 28 tablets of Xanax 1mg and the blister pack contained 29. You signed that you had given the inmate 2 tablets, yet the card for that inmate was found to still have 29 tablets remaining. When questioned, you stated that someone disposed of the card with 28 tablets, and that when you left the card was correct.

On April 1, 2002 you ordered a 60-day supply of medication for an HIV inmate being paroled to a Community Corrections Center. This was done without required pre-release notification from the Records Department. It was reported that you stated to the inmate that you would "hook her up". Policy specifically indicates that a 30 day supply is issued to inmates being paroled. In addition, HIV medications are only ordered for 30 days regardless of their destination. You were also observed passing a note you had written to this inmate through the medication window, while speaking in flushed tones to her.

On April 5, 2002, it is reported that you went to the RHU without the medication bag and the Medication Administration Record. You also admitted when questioned that you pulled the inmates' names and PRN medications from the RHU book, checked to see who was due medications, and pre-poured medications into cups that you took in your pocket to the RHU. After the shift commander questioned you about the procedures for delivering medications to the RHU, you called the RHU officer and became confrontational and questioned her about this issue. The correct procedures for

PIERCE, BRIAN

PAGE 3

delivering medications to the RHU were specifically addressed with you on March 11, 2002.

On April 9, 2002, it was reported that you had a conversation in the hallway with inmates about the RSAT program and DOC programming in general, stating that the programming "was a joke". It was further reported that you made negative comments about the RSAT program to the inmates.

Several staff statements report that you have pre-poured medications prior to the start of medication line, and that you have walked away and left the medications unattended during the last three week period. You admitted to borrowing medications from other inmates' blister cards rather than using stock medication. It was also reported that you are not crushing psychiatric medications as required. This is in direct violation of our procedures as well as DOC policy 13.4.1.

You have the right to have Union Representation during this conference if you so choose. It will be your responsibility to arrange such representation with an AFSCME A-1 designated representative.

Based upon the information established during the conference appropriate action shall be initiated up to and including possible dismissal. If you elect not to attend this conference, a decision will be made based upon the facts at hand.

Sincerely,  
  
Marilyn S. Brooks  
Superintendent  
For  
Jeffrey A. Beard, Ph.D.  
Secretary

MSB/NW

CC: Deputy Wilkes  
Deputy Good  
BHR/Labor Relations Division  
Sharalee Raun, AFSCME

COMMONWEALTH OF PENNSYLVANIA  
Department of Corrections  
SCI-Cambridge Springs  
(814) 398-5400  
April 17, 2002

This is to acknowledge that I, Brian Pierce, have received a copy of my PDC  
Notification dated 4/17/02.



Employee Signature



Date

JEFFREY A. BEARD, Ph. D  
SECRETARY  
DEPARTMENT OF CORRECTIONS

WILLIAM J. LOVE  
DEPUTY SECRETARY

THE COMMONWEALTH OF PENNSYLVANIA  
STATE CORRECTIONAL INSTITUTION  
AT CAMBRIDGE SPRINGS

451 Fullerton Avenue  
Cambridge Springs, PA 16403-1229  
Telephone 814-398-5400

MARILYN S. BROOKS  
SUPERINTENDENT

Address All Replies  
To Superintendent

November 15, 2001

Brian Pierce  
313 S. Main Street  
Cambridge Springs, Pa 16403

Re: Complainant: Brian Pierce (2001 – 04)  
State Correctional Institute SCI Cambridge Springs

Dear Mr. Pierce :

This letter is in response to your complaint received in this office on October 26, 2001.

Federal and state laws and/or Department of Corrections policy prohibit employment discrimination because of a person's race, color, religious creed, national origin, ancestry, sex, age of 40 years or over, non-job-related disability; AIDS; HIV status; because of opposing discrimination or participating in the discrimination complaint process; and because of citizenship status, sexual orientation or union activity.

A charge of discrimination is an allegation by an aggrieved person that (s)he was *harmed because of one or more of these prohibited bases*. Based on the information you have provided, you have not alleged this to be the case, and have, therefore, not made a charge of unlawful discrimination. Your case is therefore closed.

You may, however, still have a personnel issue that can be addressed by your supervisor, management, or Human Resources staff.

If at any time you feel you have been discriminated against (harmed because of a protected class), please feel free to contact us. Please keep in mind, however, that complaints must be filed with the Department of Corrections within 90 days of the date of the alleged act of discrimination.

You have a right to appeal these findings to the Director of the Office of Equal Employment Opportunity, PA Department of Corrections, PO Box 598, Camp Hill, PA 17001-0598 if not satisfied with findings for further review. For an appeal to be considered timely, it must be received by the Office of Equal Employment Opportunity, or postmarked within 20 calendar days from the date of the written notification resulting from the investigation of the complaint. I am also attaching a copy off the "Avenues of Recourse for Discrimination Complaints."

EXHIBIT //

The State Employee's Assis...  
are experiencing personal proble...  
contact SEAP at 1-800-692-7454.

you  
ay

Cc: file  
certified mail (1/16/05)

## Avenues of Recourse for Discrimination Complaints

**PA Department of Corrections (D.O.C.)**  
**Office of Equal Employment Opportunity and**  
**Contract Compliance**

*Within 90 calendar days of alleged occurrence*  
PO Box 598, 2520 Lisburn Road  
Camp Hill, PA 17001-0598  
Phone: (717) 975-4934  
Fax: (717) 731-7115

**State Civil Service Commission**

*Within 20 calendar days of alleged occurrence*  
**Central Region**  
PO Box 569  
Harrisburg, PA 17120  
(717) 783-3058

**Eastern Region**

State Office Building, Room 101  
1400 Spring Garden Street  
Philadelphia, PA 19130-4088  
(215) 560-2253

**Western Region**

State Office Building, Room 411  
300 Liberty Avenue  
Pittsburgh, PA 15222-1210  
(412) 565-7661

**Pennsylvania Human Relations Commission**  
**(PHRC)**

*Within 180 calendar days of alleged occurrence*  
**Harrisburg Regional Office**  
1101-1125 S. Front Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17104-2515  
(717) 787-9780 (voice)  
(717) 787-7279 (TT)

**Philadelphia Regional Office**  
711 State Office Building  
1400 Spring Garden Street  
Philadelphia, PA 19130-4088  
(215) 560-2496  
(215) 560-5550 (TT)

**Pittsburgh Regional Office**  
11<sup>th</sup> Floor State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222-1210  
(412) 565-5395  
(412) 565-5711 (TT)

**Equal Employment Opportunity Commission**  
**(EEOC)**

*Within 300 calendar days of alleged occurrence*  
*(180 days for ADA complaints and immigration-related discrimination complaints)*

**Philadelphia Area Office**  
Bourse Bldg. Suite 400  
221 South 5<sup>th</sup> Street  
Philadelphia, PA 19106-2515  
(215) 451-5700

**Pittsburgh Area Office**  
Liberty Center  
1001 Liberty Avenue, Suite 300  
Pittsburgh, PA 15222-4187  
(412) 644-5444  
(412) 644-2720 (TTY)

**Note:** Age discrimination complaints against the state government are no longer to be filed with the EEOC, but can be filed under state law with the PHRC. Ancestry discrimination complaints may only be filed with PHRC. Immigration-related discrimination on the basis of union activity may be filed with the EEOC. Complaints of discrimination on the basis of

**ATTACHMENT D**

1 IN THE UNITED STATES DISTRICT COURT FOR THE  
2 WESTERN DISTRICT OF PENNSYLVANIA

3 BRIAN D. PIERCE, )  
4 )  
5 Plaintiff, )  
6 )  
7 -vs- ) Civil Action  
8 ) No. 03-173E  
9 PENNSYLVANIA DEPARTMENT )  
10 OF CORRECTIONS, )  
11 )  
12 Defendant. )

13 DEPOSITION OF: SANDRA PIETRZAK

14 DATE: January 20, 2005  
15 Thursday, 3:20 p.m.

16 LOCATION: Law Offices of Neal Sanders  
17 1924 North Main Street Ext.  
18 Butler, PA 16001  
19 724-282-7771

20 TAKEN BY: Plaintiff

21 REPORTED BY: Toni Rennebeck, RPR  
22 Notary Public  
23 NMR Reference No. 30738A

24 CERTIFIED COPY

1 DEPOSITION OF SANDRA PIETRZAK,  
2 a witness, called by the Plaintiff for examination,  
3 in accordance with the Federal Rules of Civil  
Procedure, taken by and before Toni Rennebeck, RPR, a  
4 Court Reporter and Notary Public in and for the  
Commonwealth of Pennsylvania, at the Law Offices of  
5 Neal A. Sanders, 1924 North Main Street Extension,  
Butler, Pennsylvania, on Thursday, January 20, 2005,  
commencing at 3:20 p.m.

6 - - - -

7 APPEARANCES:

8 FOR THE PLAINTIFF:  
9 Neal A. Sanders, Esq.  
LAW OFFICES OF NEAL A. SANDERS  
10 1924 North Main Street Extension  
Butler, PA 16001  
11 74-282-7771

12 FOR THE DEFENDANT:  
13 Thomas G. Eddy, Esq.  
Senior Deputy Attorney General  
14 Office of Attorney General  
Commonwealth of Pennsylvania  
15 Litigation Section  
6th Floor, Manor Complex  
16 564 Forbes Avenue  
Pittsburgh, PA 15219  
17 412-565-3578

18

19

20

21

22

23

24

25

1

SANDRA PIETRZAK,

11

being first duly sworn,

4

was examined and testified as follows:

5

## EXAMINATION

1

8 | BY MR. SANDERS:

6

Q. Would you state your name for the record and  
spell it for us.

11 A. My name is Sandra Pietrzak. P-I-E-T-R-Z-A-K.

12 Q. Ms. Pietrzak, my name is Neal Sanders and I'm an  
13 attorney here in Pennsylvania. Specifically  
14 we're here today in the Brian Pierce case  
15 concerning his allegations of wrongful  
16 termination against the Department of  
17 Corrections or the Commonwealth of Pennsylvania.

18 I want to thank you for coming to my  
19 office. Prior to your coming today to the  
20 deposition they call this, have you ever been  
21 put under oath and asked questions by an  
22 attorney prior to this event today? Have you  
23 ever gone through this before?

24 A. Yes.

25 || Q. How many times have you gone through this before

1 Q. What occurred in November of 2002? Were you  
2 terminated? Did you resign? What happened?

3 A. I took disability retirement and I also retired.

4 Q. So you took a disability retirement as opposed  
5 to a regular retirement?

6 A. Yes; that's correct.

7 Q. What location were you working at when you took  
8 your retirement for disability purposes in  
9 November of '02?

10 A. SCI Cambridge Springs.

11 Q. What was your position at SCI Cambridge Springs  
12 at that time?

13 A. I was a registered nurse on the 2 to 10 shift  
14 primarily working as team leader.

15 Q. Did you know Brian Pierce LPN before he started  
16 to work at SCI Cambridge Springs?

17 A. No.

18 Q. Were you treating for any stress related to your  
19 profession prior to January of '01?

20 A. January of '01?

21 Q. Prior to that were you suffering any symptoms  
22 that you felt were stress related to work?  
23 Prior to January of '01?

24 A. I had an ongoing illness of bipolar disorder.

25 Q. So that would have preceded January of '01?

1 as much as you are. Let me ask you this. When  
2 your illness gets out of hand, if it happens at  
3 work, can you tell me some of the things that  
4 you might do or say?

5 Let's try the do part. Do you know  
6 any things that you might do that would be a  
7 function of your illness becoming a problem at  
8 work? Would your voice go up? Would you get  
9 angry? Would you get sad? Would you have  
10 crying episodes? Whatever.

11 A. No. My anxiety manifested itself in difficulty  
12 sleeping.

13 Q. Would that result in your being tired at work  
14 from time to time because you didn't get the  
15 adequate sleep?

16 A. Perhaps.

17 Q. Okay.

18 A. Irritability.

19 Q. All right. There's been some testimony earlier  
20 today from the prior witness, Ms. Giroux -- I  
21 think I'm pronouncing it correctly.

22 A. Giroux.

23 Q. -- Giroux, that sometime just prior to your  
24 announcing your leaving in November of '02 that  
25 you were going to be called to a predisciplinary

1 conference.

2 A. Uh-huh.

3 Q. Do you know about that?

4 A. Yes, I do.

5 Q. Did you know about it before you took your  
6 leave?

7 A. Yes, I did.

8 Q. Did you know any of the allegations that they  
9 were making?

10 A. Yes, I did.

11 Q. What were some of the allegations they were  
12 claiming you as a nurse were being accused of?

13 A. That I was becoming irritable with inmates and  
14 staff.

15 Q. Did you agree with that having happened?

16 A. Yes.

17 Q. Anything else that they were going to be  
18 bringing up at the PDC that you never attended?

19 A. That's what I know to my knowledge.

20 Q. Did you ever get that in writing that that's  
21 what the subject of the PDC would be?

22 A. No, I didn't.

23 Q. You just got told verbally?

24 A. Yes.

25 Q. Do you remember who told you verbally that that

1 A. With Nancy and with Paul.

2 Q. Okay.

3 A. The exact contents, no.

4 Q. All right. When you would get upset at work,  
5 you would have this illness act up on you at  
6 work, would you have occasion to lose your  
7 temper or -- let's start with that. Would you  
8 lose your temper with co-employees?

9 A. Not usually. In fact, rarely.

10 Q. All right. What would you do that would cause  
11 them to be writing you up and sending you to a  
12 PDC then? What was it you were agreeing with me  
13 that occurred?

14 A. I don't know that any employee wrote me up.

15 Q. Did you ever write up any employees?

16 A. Yes.

17 Q. Do you remember any of their names?

18 A. Yes.

19 Q. What were some of them?

20 A. Brian Pierce.

21 Q. Anyone else?

22 A. I would have to think.

23 Q. Go ahead.

24 A. Maybe two years earlier I had written up an  
25 officer.

1 Q. Whose name was, or is?

2 A. Mark Kelley.

3 Q. Mark Kelley?

4 A. Uh-huh.

5 Q. Anyone else?

6 A. I can't recall.

7 Q. But there were others?

8 A. Maybe over 10 years. Early on.

9 Yes. An officer Ryan. I wrote her  
10 up on one occasion.

11 Q. A female officer named Ryan?

12 A. Yes.

13 Q. R-Y-A-N?

14 A. Yes.

15 Q. What did you write up Mark Kelley about?

16 A. It was an issue that had to do with threatening.

17 Q. Him threatening you?

18 A. Yes.

19 Q. What about Ms. Ryan?

20 A. Behaving inappropriately in front of an inmate  
21 that I felt put the inmate in harm I believe.

22 Q. Did you consider the PDC that you were about to  
23 go to in terms of your timing as to when you put  
24 in for your disability retirement? Did it have  
25 anything to do with your decision so that you

1 Q. So during the later part of your career you had  
2 occasions to have differences with Peggy Sue  
3 Haight and Yvonne McGuire and other people; is  
4 that correct?

5 A. I do not remember that Yvonne McGuire and I had  
6 an ongoing difficult relationship; no, I do not.

7 Q. But that's not the correct answer to the  
8 question about Peggy Sue Haight. That you  
9 remember.

10 A. Yes.

11 Q. And, in fact, you were so upset with Peggy Sue  
12 Haight and the way that she and you related with  
13 one another that you had suggested that she be  
14 terminated, didn't you?

15 A. That's not correct.

16 Q. Did you ever complain about her to any of your  
17 supervisors?

18 A. Yes, I did.

19 Q. And Ms. Haight left the employ of SCI Cambridge  
20 Springs in December of 2000?

21 A. Yes, she did.

22 Q. And it was her vacancy that Brian Pierce filled,  
23 wasn't it?

24 If I tell you that Brian started with  
25 you at SCI Cambridge Springs in January of '01

1 and that he filled the Peggy Sue Haight vacancy,  
2 do you have any reason to doubt me?

3 A. No.

4 Q. Did you ever have occasion to go into Chris  
5 Massung's office from time to time with  
6 complaints?

7 A. On occasion.

8 MR. SANDERS: That's all the  
9 questions I have of you, ma'am.

10 THE WITNESS: Okay.

11 MR. SANDERS: Mr. Eddy may have some.

12 MR. EDDY: I have none.

13 MR. SANDERS: Your deposition is  
14 over, and Mr. Eddy may have a question to ask  
15 you about whether you want to read this exchange  
16 before it becomes final, but I'll leave that to  
17 your lawyer, but, thank you for coming.

18 THE WITNESS: You're welcome.

19 MR. EDDY: The question simply is  
20 whether or not you, after she types your  
21 testimony, if you want to review it to make sure  
22 that it reflects everything you said accurately,  
23 or do you want to waive that?

24 Do you want to read it?

25 THE WITNESS: I would.

1 COMMONWEALTH OF PENNSYLVANIA ) CERTIFICATE

2 COUNTY OF ALLEGHENY ) SS:

3 I, Antoinette M. Rennebeck, RPR, a Court  
4 Reporter and Notary Public in and for the  
5 Commonwealth of Pennsylvania, do hereby certify that  
6 the witness, SANDRA PIETRZAK, was by me first duly  
7 sworn to testify to the truth; that the foregoing  
8 deposition was taken at the time and place stated  
9 herein; and that the said deposition was recorded  
10 stenographically by me and then reduced to printing  
11 under my direction, and constitutes a true record of  
12 the testimony given by said witness.

13 I further certify that the inspection, reading  
14 and signing of said deposition were NOT waived by  
15 counsel for the respective parties and by the  
16 witness.

17 I further certify that I am not a relative or  
18 employee of any of the parties, or a relative or  
19 employee of either counsel, and that I am in no way  
20 interested directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto set my hand  
22 and affixed my seal of office this 31st day of  
23 JANUARY, 2005.

24 Antoinette M. Rennebeck

25 COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Antoinette M. Rennebeck, Notary Public

Richard Twp., Allegheny County

724 My Commission Expires July 8, 2008

Member, Pennsylvania Association Of Notaries

NMR COURT REPORTERS  
Gibsonia, PA

63

## **ATTACHMENT E**

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

BRIAN D. PIERCE, )  
Plaintiff, )  
- vs - ) Civil Action  
PENNSYLVANIA DEPARTMENT ) No. 03-173E  
OF CORRECTIONS, )  
Defendant. )

DEPOSITION OF: CHRISTINE MASSUNG

DATE: January 20, 2005  
Thursday, 3:50 p.m.

LOCATION: Law Offices of Neal Sanders  
1924 North Main Street Ext.  
Butler, PA 16001  
724-282-7771

TAKEN BY: Plaintiff

REPORTED BY: Toni Rennebeck, RPR  
Notary Public  
NMR Reference No. 30738B

# CERTIFIED COPY

1 DEPOSITION OF CHRISTINE MASSUNG,  
2 a witness, called by the Plaintiff for examination,  
3 in accordance with the Federal Rules of Civil  
Procedure, taken by and before Toni Rennebeck, RPR, a  
4 Court Reporter and Notary Public in and for the  
Commonwealth of Pennsylvania, at the Law Offices of  
Neal A. Sanders, 1924 North Main Street Extension,  
Butler, Pennsylvania, on Thursday, January 20, 2005,  
5 commencing at 3:50 p.m.

6 - - - - -

7 APPEARANCES:

8 FOR THE PLAINTIFF:  
9 Neal A. Sanders, Esq.  
LAW OFFICES OF NEAL A. SANDERS  
10 1924 North Main Street Extension  
Butler, PA 16001  
11 74-282-7771

12 FOR THE DEFENDANT:  
13 Thomas G. Eddy, Esq.  
Senior Deputy Attorney General  
14 Office of Attorney General  
Commonwealth of Pennsylvania  
15 Litigation Section  
6th Floor, Manor Complex  
16 564 Forbes Avenue  
Pittsburgh, PA 15219  
17 412-565-3578

18

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23

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25

1 as a result of Peggy Sue Haight quitting, do you  
2 remember that?

3 A. Not offhand, no.

4 Q. Do you remember Peggy Sue Haight?

5 A. Yes.

6 Q. Do you remember her being disciplined by SCI  
7 Cambridge Springs before she quit in December of  
8 2000?

9 A. I remember her being disciplined at different  
10 times but I don't remember that specific date.

11 Q. Okay. Do you remember Nancy Pietrzak being  
12 disciplined?

13 A. Yes.

14 Q. Do you remember Yvonne McGuire being  
15 disciplined?

16 A. Yes.

17 MR. EDDY: One thing, Neal. Did you  
18 mean to say Sandra?

19 MR. SANDERS: I meant to say Sandra  
20 Pietrzak. Did I misspeak?

21 MR. EDDY: You said Nancy.

22 MR. SANDERS: All right.

23 THE WITNESS: Oh, I thought -- I was  
24 thinking Sandy anyway in my mind. Sandy  
25 Pietrzak.

1 MR. SANDERS: I appreciate that, Tom.

2 THE WITNESS: Yeah.

3 BY MR. SANDERS:

4 Q. Do you recall Sandy Pietrzak being disciplined?

5 A. Yes.

6 Q. All right. Now, who would have been your  
7 supervisor in the last two years of your career?

8 A. Deputy Good.

9 Q. Is Deputy Good male or female?

10 A. It's a male. Deputy Dave Good.

11 Q. Who was your supervisor before Dave Good?

12 A. I can't remember his name.

13 Q. That's all right.

14 A. He had passed away.

15 Q. All right. Did Deputy Dave Good ever indicate  
16 to you at any time that he felt that you had not  
17 met expectations in your performance as a health  
18 care administrator?

19 A. Not in that way.

20 Q. Tell me the way that he represented it to you.

21 A. We just talked about how -- what his  
22 expectations are. And he's the type of person  
23 that would let me say what I wanted to do and  
24 then we both just conversed about it, that's  
25 all.

1                   was anybody else.

2                   I'm trying to think of the nurses  
3                   themselves and --

4   Q.  Well, let's go beyond the nurses.  Marilyn Books  
5                   was at SCI Albion for a time and then she came  
6                   to SCI Cambridge Springs; right?

7   A.  Yes.

8   Q.  And you had other people that came from SCI  
9                   Albion to SCI Cambridge Springs other than Brian  
10                  Pierce.

11   A.  Yes.

12   Q.  All right.  Did you have a program set up for  
13                  orientation for people like Brian Pierce when  
14                  they came from SCI Albion so they could  
15                  understand the differences and the way you ran  
16                  things differently at SCI Cambridge Springs,  
17                  ma'am?  A formal program?

18   A.  We had an orientation program that we have set  
19                  up for all of them.  In fact, when they came  
20                  through, they had a written sheet of paper that  
21                  had what they had to accomplish during their  
22                  orientation.  They had to see like personnel and  
23                  all the different things like that.  Definitely  
24                  that had that.

25   Q.  And if I tell you that all happened on one day,

1 Q. Did you personally ever request any disciplinary  
2 action against Mr. Pierce?

3 A. Not really. Not to have a PDC hearing, no.

4 Q. In any fashion other than a PDC?

5 A. Just disciplining him for something he was doing  
6 that he wasn't supposed to.

7 Q. Do you have any specific recollection of that?

8 A. Yes.

9 Q. Could you elaborate please?

10 A. Brian, when he came over to our facility, wanted  
11 to do something that was -- he wanted to  
12 pre-pour medications. And when we had first  
13 started the facility they said -- an inspector  
14 came in and said we weren't allowed to pre-pour  
15 medicines, so we never did that, thinking it was  
16 -- you know, they said it was a law. Weren't  
17 allowed to do that.

18                   When Brian came over --

19 Q. Who said it was a law?

20 A. I don't know their names because it was years  
21 ago. 10 years ago. But the inspectors that  
22 came in to inspect us. And because we had  
23 inspectors come in like monthly or so to inspect  
24 us making sure that everything was kosher.

25 Actually every year they came in. But when they

1                   first started, they said we were not allowed to  
2                   pre-pour medicines.

3   Q.    Were those DOC employees?

4   A.    Yes.

5   Q.    Okay.

6   A.    So what happened was I had told Brian, because  
7                   he wanted to pre-pour medications, and I told  
8                   Brian we are not to pre-pour medications because  
9                   it's the rule in here that we're not to pre-pour  
10                  medications, and he challenged me on it.

11   Q.    How did he challenge you?

12   A.    Well, first of all he said -- he gave me all the  
13                  reasons why he thinks he should pre-pour them.  
14                  And I listened to that and I said that sounds  
15                  really good and everything but I also gave him  
16                  things that said it was wrong to do. Why it  
17                  would not be good to do.

18                   But then what he would do is, because  
19                  we were on a -- I was on the first shift and he  
20                  was on the second shift, he did it anyway. And  
21                  we actually walked in on him with pre-poured  
22                  medications sitting there, and he had gotten  
23                  caught. And Nancy Giroux, I do know that she  
24                  had disciplined him a couple times.

25   Q.    When you say we walked in, who's we?

1 A. I walked in one day, and at other times she had  
2 walked in.

3 Q. Oh, okay.

4 A. And she had disciplined him. And I thought it  
5 was over with, but I had walked in on him, and  
6 it was the med line time and he had pre-poured  
7 medications and I said to him, Brian, you see  
8 these pre-poured medications here? You're not  
9 allowed to pre-pour. You knew you're not  
10 allowed to pre-pour medications, but I am not  
11 going to do it right now because there's inmates  
12 standing there. I mean, they couldn't hear you  
13 from outside anyway but I said since you are in  
14 the med line, I'm not going to stop this  
15 business, but we're going to discuss this  
16 business. And that's what happened. We  
17 discussed it.

18 Q. Did he admit to pre-pouring the medications?

19 A. Yes, he did.

20 Q. You said he knew he wasn't allowed to pre-pour  
21 medications. How would he know that?

22 A. He had been disciplined by Nancy Giroux I know  
23 of two times at least. I don't remember the  
24 dates or anything but I know that she did that.  
25 And that's why I thought it was over with; that

1                   she told him no, no, no.

2 Q. You mean prior to the time that you observed him  
3                   doing that?

4 A. Yes. And then when I walked in, they were  
5                   already pre-poured. I talked to him about it.  
6                   And he still argued the fact that he thought he  
7                   should do them. And so I said, okay, let me --  
8                   I was being nice about it. I said, let me go  
9                   find different books if there's any rulings or  
10                   laws or anything like that. And I do remember  
11                   going into books and things, and there was one  
12                   Fundamentals of Nursing that I looked into and  
13                   they said that wouldn't be a good idea to do,  
14                   and they gave the reasons, and I thought that's  
15                   basically what we were thinking but --

16 Q. Do you remember the reasons?

17 A. Yes. For one thing those medications are out of  
18                   the bottles. They're collecting dirt from the  
19                   air. That's one thing.

20                   If you have them there and you happen  
21                   to have to leave in an emergency, somebody might  
22                   come in and not realize what those meds are and  
23                   stuff and have to give -- and you're supposed to  
24                   -- when you give them, you're supposed to be  
25                   popping them out to that person right then, not

1           be having them ahead of time, because if they  
2           would leave, then -- you have to leave for some  
3           reason and then somebody has to come in and fill  
4           in for that, that's not a good idea to do that.  
5           You could give them the -- you know, something  
6           could be messed up. That's basically the  
7           reason.

8   Q.    Is there also a possibility of tampering?

9   A.    Tampering. Anything could happen.

10   Q.    Did Mr. Pierce ever use the defense or state to  
11        you that this was a practice at Albion and  
12        that's why he did it here?

13   A.    I don't think he ever used that on me. I don't  
14        think so.

15   Q.    Do you know if they do that sort of thing at  
16        Albion?

17   A.    I don't remember. I don't know if they did, no.  
18        I just said here we don't at least. I don't  
19        know if he did.

20   Q.    You made it clear to him that at least at  
21        Cambridge Springs it doesn't happen there?

22   A.    Right.

23   Q.    But you stated that you felt that was a DOC  
24        policy by virtue of these inspectors that had  
25        come around and told you not to do that.

1           was in there, then things started to change with  
2           the way he wanted things done when he wanted  
3           them done. This is the way we should do it  
4           here. This is the way it should be done here.  
5           And it was just always that way.

6           Basically that was it. I always just  
7           felt that he was trying to be contrary to what  
8           we were doing there. And we did listen to him.  
9           We did. We listened to him about the things  
10          that he wanted to do, and we took it into  
11          consideration. And then we would come and say  
12          this is the reason why we don't want to, and he  
13          just didn't like the reasons.

14          Q. Did you ever discipline Mr. Pierce because he  
15          was a man?

16          A. No.

17          Q. In the instances where you did discipline him,  
18          in your opinion he was guilty of either  
19          infractions of policy or refusal to correct  
20          behavior for which he had been previously  
21          warned?

22          A. Yes.

23          Q. Do you know of any female nurses who would have  
24          been not disciplined for the same behaviors?

25          A. No. Because like I said earlier, I did not

1 remember how certain ones, like Ms. Haight, but  
2 she was disciplined for actions similar to that  
3 and we did that with her. And I just don't  
4 remember all the in's and out's about it or the  
5 basic things, but I remember her being  
6 disciplined for that kind of thing too.

7 Q. Do you remember her correcting her behavior?

8 A. Yes, she did. She corrected it.

9 Q. So the distinction between things that might  
10 have happened to Mr. Pierce and somebody like  
11 Ms. Haight would lie in the fact that one  
12 corrected their behavior and the other refused  
13 to?

14 A. Yes.

15 MR. EDDY: That's all I have.

16 - - - -

17 RE-EXAMINATION

18 - - - -

19 BY MR. SANDERS:

20 Q. You left out a little bit here. Let's go over  
21 some things. You remember you're under oath;  
22 correct?

23 A. Yes.

24 Q. One of the things that you forgot to tell  
25 Mr. Eddy when he was questioning you is that on

1 BY MR. EDDY:

2 Q. Were you aware that Mr. White had a  
3 discrimination case pending against the  
4 Department of Corrections at any time?

5 A. Yes.

6 Q. Were you ever a part of that proceeding?

7 A. No.

8 Q. Were you a decision-maker at all in connection  
9 with anything that might have happened to him?

10 A. No.

11 Q. Do you have an opinion on Mr. White? Do you  
12 have any personal animosity towards him?

13 A. No.

14 Q. Did you ever take any action, disciplinary  
15 action against Mr. Pierce because he might have  
16 been involved in Mr. White's case against the  
17 department?

18 A. Absolutely not.

19 Q. Did anybody ever insinuate or infer or instruct  
20 you to do that?

21 A. No.

22 MR. EDDY: That's all I have.

23 - - -

24 RE-EXAMINATION

25 - - -